

# EXHIBIT 1

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# Motions filed for Recusal of Charlottesville Rally Clerks

Posted on [March 24, 2020](#)



- Rally litigant Elizabeth Sines (Center) with Hutton Marshall (Left) and Joshua Lefebvre (Right), the two clerks writing the opinions in her case.

Plaintiffs in a [free speech case stemming from the 2017 Unite the Right rally](#) have filed a Motion to Recuse two law clerks writing the opinions of Judge Norman K Moon citing unacceptable bias within his courtroom.

Incredibly, Judge Moon's opinions in multiple cases stemming from the rally have been written by close personal friends of Elizabeth Sines, a woman suing rally organisers. Further evidence shows that Judge Moon's clerks going back to 2018 are 1. Material fact witnesses in the cases 2. Friends of an opposing litigant and 3. Have made several prejudicial statements about rally organisers before being hired to

decide matters in these cases.

Information about the two law clerks, Hutton Marshall and Joshua Lefebvre, was uncovered last month and was released in the [Twitter thread below](#):



**Jason Kessler**  
@TheMadDimension

What if I was to tell you that Judge Moon does not actually write his opinions?

Would you be surprised to know the people writing Judge Moon's opinions are:

1. Friends with Elizabeth Sines
2. Coworkers of Amy Spitalnick
3. Left wing activists with ties to Antifa ?

(thread)



**Hutton Marshall** updated his cover photo.  
February 10, 2019 · 🌐



10

1 Comment



Share



**Elizabeth Ann**

The BEST OF FRIENDS I like how everyone is holding ...

170 1:28 PM - Feb 26, 2020

75 people are talking about this



**Jason Kessler** @TheMadDimension · Feb 26, 2020

Replying to @TheMadDimension

3. Hutton Marshall worked with Amy Spitalnick, Executive Director of Integrity First for America, at the Office of the New York State Attorney General's Office.

Integrity First is the organization founded by Roberta Kaplan behind the lawsuits against UTR attendees.



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### Intern

Office of the New York State Attorney General

May 2017 – Jul 2017 · 3 months

Greater New York City Area

Interned in the Special Investigations and Prosecutions



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View full profile



**Jason Kessler**

@TheMadDimension



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### Communications Director & Senior Policy Advisor

Office of the New York State Attorney General

Oct 2016 – Jan 2019 · 2 years 4 months

New York, NY



Join to view Amy's full profile

View full profile

24 1:43 PM - Feb 26, 2020

[See Jason Kessler's other Tweets](#)



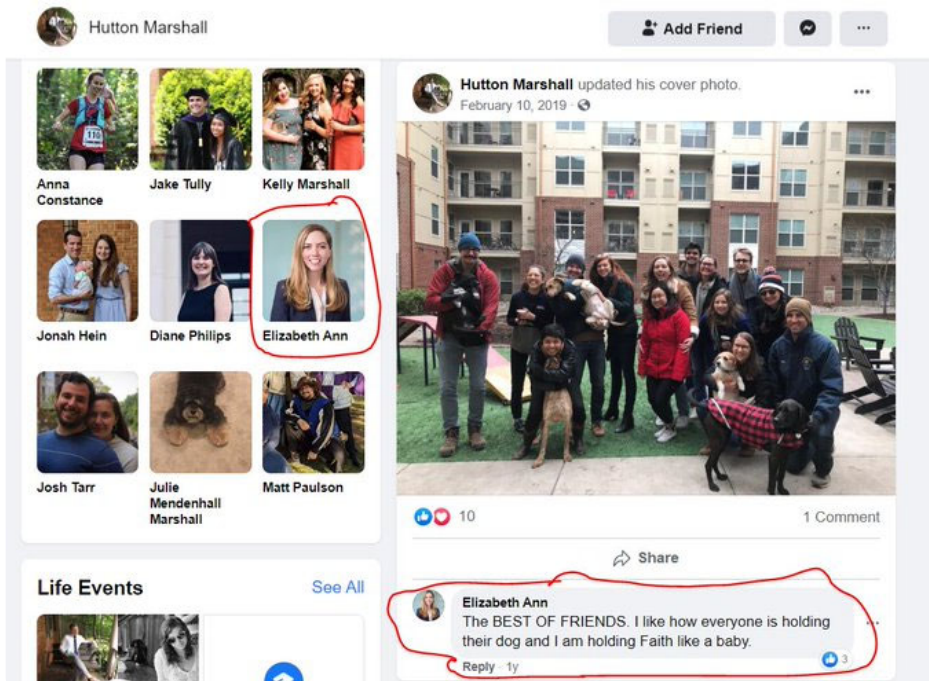
**Jason Kessler** @TheMadDimension · Feb 26, 2020

Replying to @TheMadDimension

4. Hutton Marshall is "BEST OF FRIENDS" with Sines v Kessler lead plaintiff Elizabeth Sines.

Those are her words in this image from his Facebook page. Hutton's fiance liked the comment.

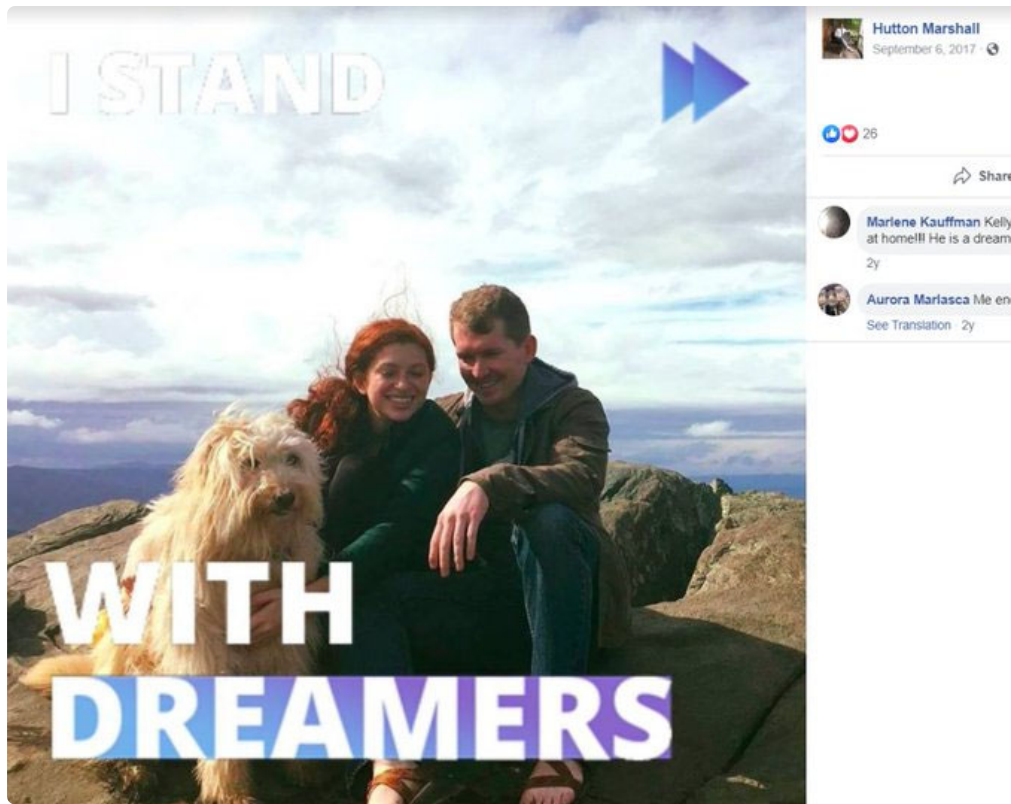
This picture is currently Hutton's header image



**Jason Kessler**  
@TheMadDimension

5. Hutton is a left-wing activist who advocates for illegal immigration while ostensibly serving the law.





38 1:49 PM - Feb 26, 2020

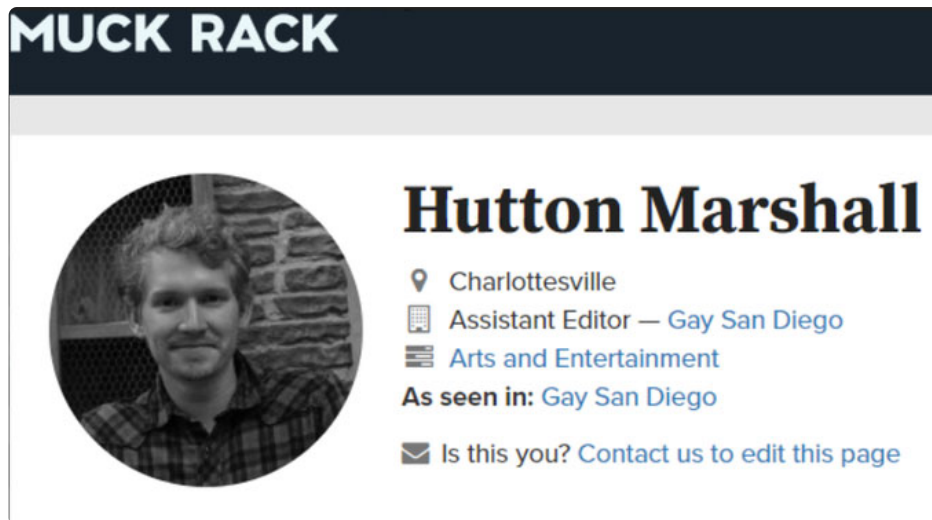
[See Jason Kessler's other Tweets](#)



**Jason Kessler** @TheMadDimension · Feb 26, 2020

Replying to @TheMadDimension

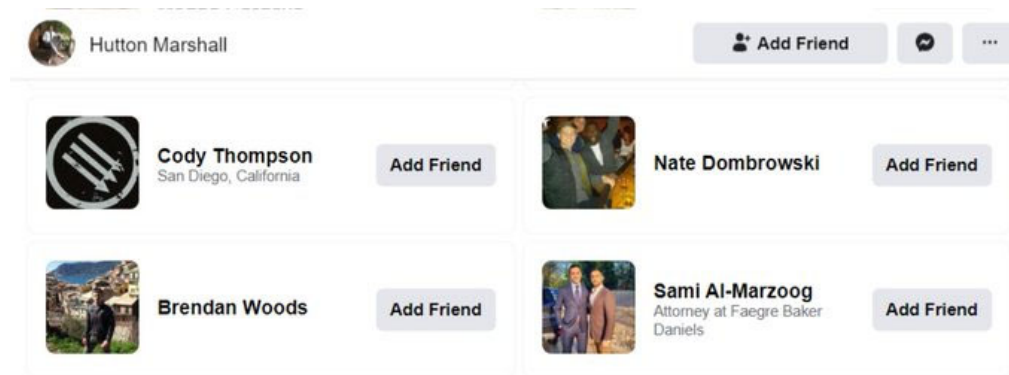
6. Hutton wrote at a social justice publication for gay rights and culture.



**Jason Kessler**  
@TheMadDimension

7. Hutton Marshall has ties to Antifa. The "Cody Thompson" account below signifies his affiliation with the three downward facing arrows you

see below.



32 1:55 PM - Feb 26, 2020

[See Jason Kessler's other Tweets](#)



**Jason Kessler** @TheMadDimension · Feb 26, 2020

Replying to @TheMadDimension

8. You must surely think this is over, right?

No sir...

What if I was to tell you that Judge Moon has ANOTHER CLERK who is a possible MATERIAL WITNESS to the events of August 11 & another close personal friend of plaintiff Elizabeth Sines?

Let me introduce you to Josh Lefebvre



**Joshua Lefebvre**

Law Clerk, U.S District Court for the Western District of Virginia

United States · 500+ connections · [Contact info](#)

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U.S. District Court, Western District of Virginia  
University of Virginia School of Law

#### Experience



**Law Clerk**

U.S. District Court, Western District of Virginia  
Aug 2019 – Present · 7 mos



**Jason Kessler**

@TheMadDimension

9. Information on Lefebvre is a little more scarce but look what I found in this article many of us have probably seen & overlooked a dozen times....[law.virginia.edu/news/201708/st...](http://law.virginia.edu/news/201708/st...)

Chia and Sines missed being hit by just a couple feet. Sines later recalled Chia's arm pulling her into a doorway, possibly saving her from injury as the car backed up. After the shock died down, and after helping other people on the scene in need, the pair retreated to the home of law student **Josh Lefebvre** '19 to begin to understand what had happened. As they told their story, the pair seemed hopeful for the future. They wrote in The New York Times, "We witnessed domestic terrorism in our home. Neither of us regrets attending the rally, and we will keep showing up, every single time it's necessary."

28 2:05 PM - Feb 26, 2020

[See Jason Kessler's other Tweets](#)



**Jason Kessler** @TheMadDimension · Feb 26, 2020

Replying to @TheMadDimension

10. Given all this damaging evidence of bias in the Norman Moon courtroom, I have instructed my attorneys to put this in the court record & file a motion for recusal of Norman Moon.

We will also be looking into having "Moon's opinion" (wink, wink) in our offensive case vacated



**Jason Kessler**  
@TheMadDimension

11. Just noticed something else.

Josh Lefebvre also appears to be in the "BEST OF FRIENDS" photo with Elizabeth Sines and Hutton Marshall.





28 3:25 PM - Feb 26, 2020

[See Jason Kessler's other Tweets](#)

As it is well known within the legal community, [clerks are widely known to write as many as 95% of rulings for federal judges.](#)

The Motion to Recuse [can be read here:](#)

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA

JASON KESSLER ET AL.,	:	Case No. 3:19-CV-44
Plaintiffs,	:	(Judge MOON)
v.	:	
CITY OF CHARLOTTESVILLE ET AL.,	:	<u>MOTION FOR RECUSAL</u>
Defendants.	:	

Now come Plaintiffs and move the Court to disqualify from further involvement in any "Unite the Right" related litigation law clerks Hutton Marshall and Joshua Lefebvre pursuant to 28 U.S.C. §455(a) and §455(b)(1).

A. Facts

Hutton Marshall

Mr. Marshall is a personal friend of one of the party plaintiffs in the Unite the Right related case *Sines v. Kessler*<sup>1</sup>. This friendship exceeds the bounds of mere acquaintance or professional association. Specifically, Mr. Marshall is identified as a "best friend" of Ms. Elizabeth Sines on Marshall's Facebook account.<sup>2</sup> Mr. Marshall and Ms. Sines are pictured on social media as members of the same social group for dog enthusiasts. Said group is not very large and implies a sufficient level of personal friendship outside of law school or other professional context to reasonably question the impartiality of Mr. Marshall.

An additional Rule 59 Motion was filed last week, to have a recent dismissal ruling in the Kessler v Charlottesville case overturned for judicial error. In that ruling, Moon and his law clerks claimed that Charlottesville Police Chief Al Thomas had a right to order the police stand down and allow Heckler's Veto violence.

This order led to rioting and the dispersal of the permitted rally before it was scheduled to take place. A Rule 59 Motion is a way of asking to have a judicial decision reversed based on judicial error and is one step that can be taken prior to an appeal.

[Read the Rule 59 Motion here:](#)

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA

JASON KESSLER ET AL.,	:	Case No. 3:19-CV-44
Plaintiffs,	:	(Judge MOON)
v.	:	
CITY OF CHARLOTTESVILLE ET AL.,	:	<u>MOTION TO ALTER OR AMEND</u>
Defendants.	:	<u>JUDGMENT CIV. R. 59(E) AND FOR</u>
	:	<u>RELIEF FROM JUDGMENT CIV. R. 60</u>
	:	
	:	

Now come Plaintiffs and move the Court to alter or amend its judgment dismissing Plaintiff's Complaint<sup>1</sup> against all Defendants pursuant to Fed. R. Civ. P. 59(e) and for relief from said judgment pursuant to Fed. R. Civ. P. 60. As set forth below, Plaintiffs submit that the Court's Memorandum Opinion and Order is based on errors of law. A corrected understanding of the applicable law yields the conclusion that the DeShaney case does not bar any of the Plaintiff's claims and that the Court must vacate its judgment and deny the Defendants' motions to dismiss.<sup>2</sup>

A. The Court Misapplied *DeShaney*

1. Defendants had a duty to protect Plaintiff's First Amendment rights

"Section 1983..... is not an independent source of substantive rights, but simply a

...

### Judge Moon's 2018 Law Clerk Dascher Pasco

Additionally I can confirm new, never before released evidence about Judge Moon's law clerk from 2018, Dascher Pasco. Per [National Justice](#), Pasco helped Moon decide several momentous decisions relating to Unite the Right during the 2018 term, including the Constitutionality of the Federal Rioting Act ([See Rise Above Movement](#)) and an order rejecting Motions to Dismiss lawsuits filed by Elizabeth Sines and [Roberta Kaplan](#) against rally organisers.

## Dascher Pasco

Norman K. Moon '62, LL.M. '88, U.S. District Court for the  
Western District of Virginia

On the day of Unite the Right, Pasco took to Facebook to state that "chanting" and "horrible phrases" of Charlottesville marchers "disgusts me". She implored her followers to "stand up against this hatred."



**Dascher Pasco**

August 12, 2017 · 🌐

As I sat in Jerusalem discussing antisemitism, I learned about the atrocities happening at home. The irony is not lost on me.

Words cannot adequately capture my feelings, but to know that people are chanting "Jew will not replace us," among other horrendous phrases, steps away from my house in Charlottesville disgusts me. To know that friends and loved ones are willing to stand up against such hatred gives me hope.

I'm sorry I'm not there, I'm sorry I'm not beside those who are strong enough to stand up against this hatred, but please know that I'm grateful and proud ❤️



NYTIMES.COM

### State of Emergency Declared in Charlottesville After Protests Turn Violent

— Archive link: <http://archive.is/aJsi4>

As offensive as the phrase "Jews will not replace us" may be (chanted by trolls rather than rally organisers), it must be respected as Constitutionally protected speech. Dascher Pasco was in no position to decide for Judge Moon if words like these are Constitutionally protected speech or a "hate crime".

In another rambling Facebook screed, Pasco implored her followers to, "Fight all racism as strongly as you *fight anti-Semitism and fight it regardless of the speaker*" (emphasis added).



3. Do not allow Trump or his false claims to drive wedges among American Jews. Do not let the policies of the current Israeli government completely color your view of the nation or the importance of her existence for the Jewish people. Fight all racism as strongly as you fight anti-Semitism and fight it regardless of the speaker.



NYTIMES.COM

## Trump Again Accuses American Jews of Disloyalty

"If you want to vote Democrat, you are being very disloyal to Jewis..."

— Archive link: <http://archive.is/OxAzv>

While Pasco was [president of the Jewish Law Student Association](#), its leadership submitted an editorial to the Virginia Law Weekly entitled [Oppose Antisemitism in All Its Forms](#). It heavily referenced the Unite the Right rally, organiser Jason Kessler and made clear that its members could be counted on as judicial activists against anti-semitic speech. They claim to have “experienced anti-semitism directly on August 12th.”

[As president of Virginia Law Women](#), she even went so far as to approve of my harassment at the UVA Law Library while I was trying to study for the Sines litigation.





**Virginia Law Women**

19 April 2018 · 🌐

A message from our President and executive board regarding Jason Kessler's appearance at the law school yesterday:

"To reiterate Dean Goluboff's message last night: white supremacy is abhorrent and inimical to the values we hold dear—diversity, collegiality, humanity, empathy, and reason. Virginia Law Women is a proud member of the Minority Rights Coalition, and we are eager to amplify the voices of MRC members now and in the weeks ahead. While we can collectively condemn Jason Kessler's message of hate and bigotry, we fully acknowledge that this burden is born disproportionately by marginalized populations. We stand with and are eager to support our members, friends, and colleagues who have been targeted by Kessler, and we welcome the opportunity to unite with the rest of the Virginia Law community."

— [Archive link](#)

### **Where we go from here**

Within a few weeks Judge Moon will rule on both the Motions to Recuse and the Rule 59 Motion. If the Rule 59 Motion is successful Kessler v Charlottesville will be allowed to go forward into the discovery phase. This is good news for everyone who has been anxiously awaiting discovery of the August 12th text messages and emails [the Heaphy Report](#) says Police Chief Al Thomas deleted. Additionally, City Manager Maurice Jones had communications that day which he has refused to turn over through repeated FOIA requests.

If Moon decides to double down on bias in his courtroom we will next have to put in a Notice of Appeal to the Fourth Circuit Court of Appeals.

We fully expect that a fair analysis of the case will overturn Moon's ruling and reiterate that [police cannot allow a Heckler's Veto without violating the Constitution](#).

That process will take about 18 months.

If however we still don't get the ruling we are looking for, our only option will be to request a hearing before the Supreme Court. There is a plausible chance our case could be picked up because a refusal, by an appeals court, to acknowledge a Heckler's Veto cause of action would trigger a conflict with every other court in the nation.

Such cases are given preference on the Supreme Court docket.

-Jason Kessler

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